

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION

HENRY NELSON, }
Plaintiff, } CIVIL ACTION NO.
v. } CV-01-AR-2528-S
NCO FINANCIAL SYSTEMS, INC., }
Defendant. }

FILED
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U.S. DISTRICT COURT
N.D. OF ALABAMA
OF ALABAMA

OF
ENTERED
OCT 29 2001

MEMORANDUM OPINION

On October 15, 2001, this court notified the parties that in the event a motion to remand was filed by plaintiff, Henry Nelson, before October 26, 2001, the said motion would be heard at regular motion docket at 9:00 a.m. on October 26, 2001. On October 25, 2001, plaintiff filed such a motion reflecting facsimile service on defendant's counsel. In his motion plaintiff disclaims any intention to rely on the Fair Debt Collection Practices Act, or on the Fair Credit Reporting Act or on any other federal liability theory. This court has no reason to believe that the Circuit Court of Jefferson County, Alabama, from whence the case was removed, would grant plaintiff relief under a federal theory of liability after plaintiff has made it crystal clear that he seeks no such relief and relies entirely upon a theory or theories of state law. Plaintiff has the right to limit his cause of action and has done so. Defendant cannot recharacterize a claim as federal over plaintiff's insistence to the contrary. For these reasons, this court lacks the federal question jurisdiction upon which this

removal is based. A separate order of remand will be entered.

DONE this 29th day of October, 2001.



WILLIAM M. ACKER, JR.
UNITED STATES DISTRICT JUDGE